FLORIDA ASSOCIATION OF COUNTIES
All About Florida

2018 FEDERAL POLICY BRIEF

EMERGENCY MANAGEMENT: HELP FLORIDA RECOVER AND REBUILD

BACKGROUND BRIEFING MATERIALS

FEMA Recovery Funds -- Deobligations

Background: Following Hurricanes Katrina and Sandy, Florida counties and cities have experienced an increase in the number of recovery audits performed by the Department of Homeland Security (DHS) Inspector General's (IG) office.

The objective of the audits is to determine whether entities have accounted for and expended Federal Emergency Management Agency (FEMA) funds in accordance with federal regulations and FEMA guidelines.

While local project audits are not uncommon to Florida, prior to 2010 few local governments had been directed to return funds to the state as a result of an audit finding. As evidence of this anomaly, Governor Rick Scott's 2010 transition report on emergency management stated that there were seven local agencies that owed the State and FEMA a total of $7.6 million due to various audits of claims from old disaster grants. By the Summer of 2014, deobligation recommendations in Florida totaled nearly $100 million.

Issue Summary: Under current law, FEMA has the authority to deobligate previously-awarded funds from a local government up to 3 years following the close-out of a Presidential disaster declaration. This means that a storm that occurred in 2005 and finally closes in 2020 can have funds deobligated by FEMA nearly two decades later.

Additionally, a local government that has funds deobligated has the right to appeal this action to FEMA. However, rather than waiting for the local government to exercise this option, FEMA immediately deobligates the funds from the state's disaster account (acting as the Grantee). This has forced the state to shift funds from other communities in order to meet recovery obligations.

Key Issues:

(1) The process for deobligating funds should be fixed to the period of time associated with the completion of a project, rather than the entire disaster declaration.

(2) Under current law, a local government that has funds deobligated can appeal this action to FEMA. FEMA should be prohibited from deobligating funds until the appeal period has expired.

Recent Emergency Management Related Appropriations

2018 Bipartisan Budget Act of 2018

U.S. Army Corps of Engineers Funding

The "Bipartisan Budget Act of 2018," was signed into law on February 9, 2018. The bill extended a fifth continuing resolution (CR) to fund the government through March 23, 2018 and included $90 billion in disaster relief funds for states impacted by the 2017 storms, including Florida. The legislation provided $10.42 billion to U.S. Army Corps of Engineers that may be used for completing repairs to the Herbert Hoover Dike. Senators Rubio and Nelson sent a joint letter the Corps urging it to allocate $776.4 million to expedite completion of the project by 2022, rather than 2025. FAC supported the Senators' recommendation and provided a resolution to that effect.

USDA – Emergency Watershed Program

The Emergency Watershed Protection (EWP) Program allows communities to quickly address serious and long-lasting damages resulting from natural disasters. Among the projects funded under the program are debris removal from stream channels, road culverts, and bridges. As a part of disaster supplemental funding under the Bipartisan Budget Act of 2018, Congress appropriated $541 for this program as a part the disaster but none of the funds have been awarded to Florida.

Supplemental Mitigation Funding

The 2018 Budget Act provided supplemental funding for mitigation in two forms. The first appropriation included $616 million to HUD under the Community Development Grant Program. Provision in the law state that 80% of the funding must be expended for recovery in the most impacted and distressed areas. The funds are to benefit persons of low and moderate income, aid in the prevention or elimination of slums or blight, and meet other urgent community development needs because of serious or immediate threat. Also, 70% of the funds must benefit low and moderate income needs. It should be noted that mitigation is an eligible use of the funds but not a requirement. In addition to this HUD allocation, the agency recently announced that it is sending an additional $791 million to Florida under the CDBG program. Of this amount, $635 million will go to mitigation activities to protect people and property from future storms. Eligible projects include elevating homes, property buyouts, and hardening structures from wind and water. Finally, the Budget Act appropriated $426 million to FEMA under its post-disaster Hazard Mitigation Program (HMGP) $426 million. All of these funds are directed to Florida.

Recent Emergency Management Related Appropriations

2018 Omnibus Appropriations

Disaster Relief Fund

FEMA's Disaster Relief Fund receives a nearly $8 billion injection of new funds under the omnibus, of which $7.3 billion is designated for disaster relief related to major disasters. The Disaster Relief Fund is the primary funding source for federal disaster response and recovery. This new funding follows more than $100 billion additional funds which were appropriated over the last several months following the major hurricanes and wildfires of 2017. Unlike most other federal programs that support states and localities, the Disaster Relief Fund is a "no-year" account, meaning that unused funds left over from previous years are carried over to the next fiscal year.

Changes to Federal Disaster Declaration Process

The omnibus directs FEMA to provide Congress with recommendations for modifying the disaster declaration process to better focus federal assistance on events during which state and local capabilities are "truly overwhelmed" or lives and property are at risk. FEMA is further directed to include an assessment of the suitability of the current per-capita indicator used in presidential disaster declarations, consideration of the "severe local impacts of disasters," and analysis of the disaster deductible model and any other policy changes FEMA is considering. Changes to the presidential declaration process or the current per-capita indicator could result in significantly fewer disasters qualifying for federal aid.

Emergency Management Performance Grants (EMPG)

Under the omnibus, EMPG, a long-standing priority of NACo's Justice and Public Safety committee, receives $350 million in FY 2018 funding, the same level provided in FY 2017. EMPG funds to build and sustain core capabilities across the prevention, protection, mitigation, response and recovery mission areas. Many local governments use EMPG for emergency management training and necessary equipment, and the program is often credited with helping jurisdictions coordinate their operations in a manner that enables local-to-local assistance after significant disasters.

National Predisaster Mitigation Fund

FEMA's National Predisaster Mitigation Fund receives $249 million in FY 2018, a major increase of $149 million over FY 2017. The fund helps to mitigate risks, reduce damage from future disasters and lower flood insurance premiums for homes and businesses. The omnibus frames this funding increase as an opportunity to advance capital projects ready for investment in a manner that reduces risks. The increase in funding also aligns with FEMA's ongoing recent focus on disaster mitigation.

Emergency Watershed Protection Program

The Emergency Watershed Protection (EWP) Program allows communities to quickly address serious and long-lasting damages to infrastructure and to the land. The EWP (EWP) Program's timelines for assistance ensures NRCS must act quickly to help local communities cope with adverse impacts resulting from natural disasters. All projects must demonstrate that they reduce threats to life and property; be economically, environmentally and socially sound and must be designed to acceptable engineering standards. The EWP Program EWPP also allows NRCS to establish non-traditional partnerships with sponsors to complete projects.

EWP Program - Recovery

NRCS provides financial and technical assistance for the following activities under EWP Program – Recovery:

- Debris removal from stream channels, road culverts and bridges;
- Reshape and protect eroded streambanks;
- Correct damaged drainage facilities;
- Establish vegetative cover on critically eroding lands
- Repair levees and structures; and
- Repair conservation practices.

Eligibility

Public and private landowners can apply for assistance for EWP Program – Recovery projects through a local sponsor, or a legal subdivision of state or tribal government. Eligible sponsors include cities, counties, towns, conservation districts, flood and water control districts, or any federally-recognized Native American tribe or tribal organization.

Sponsors are responsible for the following:

- Providing land rights for the repairs;
- Securing the necessary permits;
- Providing the sponsor funding for repairs;
- Ensuring the repairs are installed; and
- Completing the repairs using federal or local contracts.

WP Program Funding

Congress approves all EWP Program funding. can pay up to 75 percent of the cost for eligible emergency projects. Local sponsors must acquire the remaining 25 percent in cash or in-kind services.

Disaster Supplemental Funding

As a part of disaster supplemental funding under the Bipartisan Budget Act of 2018, Congress appropriated $541 for this program as a part the disaster but none of the funds have been awarded to Florida.

Mitigation Funding

The goal of disaster reduction is to reduce the risk to life and property, which includes existing structures and future construction, in the pre- and post-disaster environments. This is achieved through regulations, local ordinances, land use, building practices mitigation projects that reduce risks.

Florida has a robust mitigation program and has received millions in federal dollars that have proven to reduce disaster losses. As evidence of this, Florida Division of Emergency Management, in its evaluation of 40 hazard mitigation projects impacted by Hurricane Matthew, over 4,400 structures were protected from storm damage. The 40 projects had a combined capital cost of $19.2 million in 2016 dollars. Without mitigation, damages to the project sites affected by Mathew would have cost approximately $81.1 million. The aggregate ROI for the event is 422 percent, with an average project ROI of 97 percent.

Unfortunately, most of the funds that Florida has received over the last 15 years has come post-disaster under FEMA's Hazard Mitigation Program. Pre-disaster funding, while significant, represents a small portion of what the state has received. Specifically, since 2004, Florida has received $166 million in pre-disaster mitigation funds, while it has been awarded more than $1.2 billion in post-disaster HMGP funds.

FEMA reports that, for mitigation to be effective, steps need to be taken <u>before</u> the next disaster. The agency points out that mitigation:

- Creates safer communities by reducing loss of life and property damage. For example, the rigorous building standards adopted by 20,000 communities across the country are saving the nation more than $1.1 billion a year in prevented flood damages.

- Allows individuals to minimize post-flood disaster disruptions and recover more rapidly. Absent mitigation, flood claims can be exorbitant, as demonstrated after the 2005 hurricane where more than 200,000 Gulf Coast residents received more than $23 billion in flood insurance payments to repair storm-damaged properties.

- Lessens the financial impact on individuals, communities, and society. For example, a recently updated study by the National Institute of Building Science show that federally funded mitigation grants, on average, can save the nation $6 in future disaster costs for every $1 spent on hazard mitigation.

Roundtable explores building disaster resilience

By SANAH BAIG Mar. 30, 2018

County leaders, federal officials and corporate partners met March 2 at NACo to discuss county-driven mitigation efforts that have made communities resilient to disasters.

“The issue of resilience is ready for prime time, and the Resilient Counties Initiative is working to build the momentum around this movement as we identify our path forward,” said James Gore, Resilient Counties Advisory Board chair and Sonoma County, Calif., supervisor.

The purpose of the roundtable discussion was to gain a better understanding of:

- programs and policies counties created to make it easier, cheaper and quicker to bounce back after a disaster
- how counties can better streamline procedures and utilize available resources, and
- how the Resilient Counties Initiative can support their efforts.

It is critical for counties to set themselves up for sustainable recovery before a disaster by establishing key partnerships and pre-disaster contracts, Gore said. In line with Federal Emergency Management Agency (FEMA) Administrator William “Brock” Long’s top priority, attendees discussed creating a “culture of preparedness” in which communication prior to a disaster leads to community well-being.

To prepare for disasters, county officials need to establish relationships at all levels of government and with all manners of partners, including the public, volunteer organizations, faith-based organizations, local businesses.

As Commissioner Darry Stacy from Cleveland County, Okla., pointed out: “You have to have relationships in place before an event so that you know who to reach out to for expertise when disaster strikes.” The federal partners in the room agreed. Leonard Jordan, associate chief for Conservation at the U.S. Department of Agriculture’s (USDA) Natural Resources Conservation Service, said, “USDA takes pride in collaborating, coordinating and capitalizing on the power one gets from collaborating. It’s about putting systems in place so we are not reactive.”

Discussion also centered on managing risk and knowing what resources — federal, corporate and non-profit — are out there. County governments fill the gaps between what federal government and industries provide post-disaster, so it is critical to understand the boundaries.

Attendees spent the majority of the roundtable discussing pre-disaster strategies, including: adopting new and updating old plans (hazard mitigation plans, continuity of operations plans), adopting new administrative land use and building code policies; undertaking hazard mitigation projects; putting assistance contracts and agreements in place pre-disaster and educating residents on basic preparedness principles, all major hazards and expectations for each.

Financially, Linda Langston, NACo director of Strategic Relations and former Linn County, Iowa supervisor, recommended that counties are prepared with adequate reserves and policies that allow for expedited financial decisions. Counties also need to understand duplication of benefits — multiple federal funds cannot be used on the same project — this is an area where some local governments get tripped up and must then pay the government back. Participants raised the issue of how to pay for pre-disaster mitigation projects. While FEMA has the Pre-Disaster Mitigation grant program, those resources are not enough. Counties often grapple with finding ways to pay for mitigation projects — especially counties with large amounts of federal lands on which federal dollars cannot be spent.

Commissioner Larry Schoen of Blaine County, Idaho, discussed preventative zoning and building codes his county has put in place, such as overlay districts and limiting development in high-risk areas. He recommends counties explore similar policy changes and plans and asked federal partners to continue to encourage and work with local governments to pursue pre-disaster mitigation measures.

Ryan Streeter, Intergovernmental Affairs specialist for FEMA, provided advice to counties looking to strengthen their partnership. First, he encouraged counties to understand the value of mitigation; per the recent National Institute of Building Sciences report (*https://www.nibs.org/page/mitigationsaves*), every $1 invested in hazard mitigation can save $6 in future costs. Second, he urged counties to consider the FEMA Hazard Mitigation Assistance Grant Program (*https://www.fema.gov/hazard-mitigation-assistance*), in particular the Pre-Disaster Mitigation grant program. Third, establish strong relationships with state departments of emergency management as local governments must work through the state to engage with FEMA; Fourth, FEMA is developing a National Mitigation Investment Strategy to increase the effectiveness of investments in reducing disaster losses and increasing resilience.
Beyond FEMA, Jordan mentioned USDA has resources to help prevent or deal with the aftermath of disasters. NRCS' Environmental Quality Incentives Program provides financial assistance to repair and prevent soil erosion from rainfall and flooding. The agency's Emergency Watershed Protection Program can assist local government sponsors with the cost of implementing recovery efforts like debris removal and streambank stabilization.

Stan Gimont, deputy assistant secretary for Grant Programs at the U.S. Department of Housing and Urban Development, emphasized the importance of the Community Development Block Grant Disaster Recovery grants to fund recovery activities. Gimont reinforced Sharpe's point about the importance of where to put displaced residents as well as how to rebuild housing.

Participants discussed strategies for pre-disaster contracts, including: ensuring an inclusive competitive bidding process; educating local contractors on how to participate; and the value of adding clauses to the request for proposals and to the final contracts. To encourage local businesses, counties can include a clause asking people to explain their history and knowledge of the community. To ensure that the contractor does not move your county to the bottom of the list after a disaster – when it can sign on new local governments at a higher rate – include language that states your county will be prioritized. Streeter also recommends getting in touch with surrounding jurisdictions to prevent bidding wars.

More public dialogue around hazard mitigation plans is key, Gore said, while Schoen emphasized the importance of making the public aware of their responsibilities during a disaster.

NACo will continue this conversation as part of its Disaster Mitigation and Preparedness Social Media Day, sharing examples of accomplishments and resources. Join NACo Wednesday, April 11 at 2 p.m. ET on Twitter to showcase how your county has made investments in mitigation projects and has forged partnerships that have allowed you to recover from a recent disaster.

Florida Emergency Sheltering

Issue Summary: Despite the long-standing relationship between counties and school boards, and notwithstanding the fact that FEMA has recognized school boards as eligible applicants for decades, FAC has been notified that school boards do not have the legal responsibility to conduct sheltering services and therefore cannot apply directly to FEMA for reimbursement for such activities. Rather, counties are the only ones who have the legal responsibility to seek reimbursement. This means that counties will have to reimburse school boards first, then seek a lengthy reimbursement process from FEMA. Moreover, whereas the school boards were required to pay the non-federal share match (12.5%) under the old system, counties will now be responsible for paying the match.

Background: In the aftermath of Hurricane Andrew in 1992, a special legislative commission found that the lack of public shelter space was a critical issue for the State of Florida. Based on the commission's findings, the Legislature stated its intent that Florida eliminate its deficit shelter space in every region of the State. New legislation also directed the Department of Education to develop standards for public shelters in consultation with boards, county emergency management offices, and the Florida Division of Emergency Management (DEM). The new criteria were to be designed to ensure that appropriate new educational facilities can serve as public shelters for emergency management purposes.

For its part, DEM is responsible for preparing a *Statewide Emergency Shelter Plan* (the Plan). The Plan is a guide for local emergency planning and identifies which regions of the state have shelter deficits. It also provides advisory assistance to school districts contemplating construction of educational facilities and the need to provide public shelter space within those facilities. The plan also helps guide where state funds for shelter retrofits are to be directed. For the past 15 years, the state has annually appropriated $3 million to DEM for school retrofit projects.

With respect the counties role in the shelter process, state law (s.252.385(4)(a)) provides that public facilities, including schools, which are suitable for use as public hurricane evacuation shelters, shall be made available at the request of the local emergency management agencies. This successful partnership has been in place for decades and has provided Florida residents a safe space during major storm events. The costs to run the shelters are borne by the school boards, who in turn are reimbursed by FEMA.

Florida Impact: Based on preliminary estimates for Hurricane Irma, counties will be forced to float millions of dollars for school shelter expenses before being reimbursed by FEMA.

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Florida Emergency Sheltering

Key Issues:

- Under current law, the State of Florida has very defined roles and responsibilities regarding the use and viability of evacuations shelters around the state.
- Similarly, the Florida Department of Education, and by extension each school district, has specific responsibilities to ensure its facilities are available to shelter the evacuating public.
- The county role is limited to directing the opening of school shelters during a local state of emergency. It is not required to staff or in any way manage these shelters.
- For decades, schools have been used as shelters and FEMA has recognized school boards as having the legal authority to seek reimbursement.
- No program or financial audit by FEMA over the last 30 years has ever questioned whether school boards are eligible applicants.